

Remarks

Claims 10-16 and 18-32 are pending herein. Claims 20-29 are withdrawn from consideration as being directed to a non-elected invention. By this Amendment, claims 10 and 19 have been amended, claim 17 has been canceled, and new claims 30-32 have been added.

Claim 10 has been amended in part to include the contents of canceled claim 17.

Claim 10 has also been amended to recite that the filtration material is autoclavable. Support for this recitation can be found in the specification at page 14, line 23.

In addition, claim 10 has been amended to change the term “Ac” to --Acetyl--. Support for this amendment can be found in the instant specification at, for example, page 4, lines 15 and 19.

Claim 19 has been amended to delete the language “wherein the saccharide is” and to state that the filtration material contains the recited group $(HOCH_2)_3C-NH$ as linked to the spacer. Support for this recitation can be found, e.g., in the specification at page 3, line 22 – page 4, line 2.

New claim 30 is an independent claim corresponding to the independent form of claim original 13, i.e., it combines the features of original claims 10 and 13.

New claim 31 depends upon claim 10 and recites that the filtration material is in the form of particles. Support for this recitation can be found, e.g., in the specification at page 11, line 5.

New claim 32 depends upon claim 30 and recites that the filtration material is in the form of particles.

In the Office Action, claims 10 and 19 are rejected under 35 U.S.C. §112, second paragraph; claims 10-12, 15 and 16 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,962,422 to Nagy et al. (“Nagy”); and claims 10, 14 and 18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 18, 20 and 21 of U.S. Patent No. 6,686,457 to Nilsson (“Nilsson”). Claims 13 and 17 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In view of the amendments and remarks herein, Applicant respectfully requests reconsideration and withdrawal of the rejections and objection set forth in the Office Action.

I. Rejection of Claims 10 and 19 Under 35 U.S.C. §112

Claims 10 and 19 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

According to the Office Action, the term “Ac” in claim 10 renders the claim indefinite.

Claim 10 has been amended to change the term “Ac” to --Acetyl--.

In addition, the recitation “wherein the saccharide is $(HOCH_2)_3C-NH$ ” in claim 19 is said to render the claim indefinite. More specifically, the Examiner states that it is unclear which saccharide is being referred to, especially since the formula $(HOCH_2)_3C-NH$ does not represent or correspond to a saccharide.

As stated above, claim 19 has been amended to delete the language “wherein the saccharide is” and to state that the filtration material contains the recited group $(HOCH_2)_3C-NH$ as linked to the spacer.

Applicant respectfully submits that amended claims 10 and 19 are not indefinite.

II. Rejection of Claims 10-12, 15 and 16 Under 35 U.S.C. §102(b)

Claims 10-12, 15 and 16 are rejected under 35 U.S.C. §102(b) as being anticipated by Nagy.

Regarding claim 10, Nagy is cited for teaching the claimed material containing at least one biologically active saccharide that is covalently bound via a spacer to a cross-linked matrix (see sheet 8, figure 9, last structure). According to the Examiner, the liposome to which the saccharide-spacer is bound is a cross-linked matrix.

As to claim 11, Nagy is cited for teaching that the material therein comprises a second spacer attached to the matrix (see sheet 8, figure 9, last structure).

Regarding claim 12, Nagy is cited for teaching that the matrix of the material therein is bound to more than one saccharide (see sheet 8, figure 9, last structure).

The Examiner further states that Nagy's teaching at sheet 8, figure 9, last structure anticipates instant claim 15. According to the Examiner, the binding of the pathogen is a property or effect of the composition which does not further limit the composition claimed.

Nagy's teaching at sheet 8, figure 9, last structure is also said to anticipate instant claim 16. According to the Examiner, the binding of the antibody, cancer-antigen, toxin, bacteria, or virus is a property or effect of the composition which does not further limit the composition claimed.

By this Amendment, claim 10 has been amended to include the contents of canceled claim 17. According to the Office Action, claim 17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Amended claim 10 represents such independent form of claim 17. Thus, Applicant respectfully submits that claim 10 as amended herein, and claims 11, 12, 15 and 16, each of which depends upon claim 10, are not anticipated by Nagy.

Claim 10 also recites that the filtration material therein is autoclavable. Nagy does not teach or suggest that the filtration material is autoclavable. Thus, Nagy also does not anticipate claim 10 or the claims dependent thereon for this additional reason.

In addition, Applicant submits that Nagy does not anticipate new claims 30-32. New claim 30 represents an independent form of original claim 13, i.e., it combines original claims 10 and 13. The Office Action indicates such independent claim is allowable. New claim 32 depends on claim 30 and, therefore, is allowable. New claim 31 depends upon claim 10 and is patentable over Nagy for the same reasons that claim 10 is patentable over Nagy. Claims 31 and 32 are further patentable over Nagy because the claim recite that the filtration materials of claims 10 and 30, respectively, are in the form of particles, whereas Nagy does not teach or suggest that the filtration material therein is in the form of particles.

III. Double Patenting Rejection of Claims 10, 14 and 18

Claims 10, 14 and 18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 18, 20 and 21 of U.S. Patent No. 6,686,457 to Nilsson ("Nilsson"). The Examiner states that the conflicting claims are not patentably distinct

from each other because both inventions are directed to a composition comprising a saccharide coupled to a spacer and a matrix coupled to the spacer, wherein the spacer has a specific formula.

Claim 1 of Nilsson is directed to a composition comprising a saccharide-spacer-matrix coupled to the spacer, wherein the spacer has a specific formula. Nilsson's claims 18, 20 and 21 are directed to said composition comprising blood group determinants A and B. According to the Examiner, the difference between the filtration material set forth in instant claims 10, 14 and 18 and the Nilsson claimed composition is that the filtration material used in instant claims 10, 14 and 18 contains other spacers in addition to the spacer (-O(CH₂)_nNH-) and the blood group determinants A and B recited in Nilsson. However, the Examiner states that it would have been obvious to prepare a composition comprising the spacer and blood group determinants A and B taught in Nilsson and other similar compositions comprising similar spacers and blood group determinants that has the same utility as Nilsson's composition. According to the Examiner, one of ordinary skill in the art would have been motivated to prepare such composition so as to treat blood.

As stated previously herein, claim 10 has been amended to include the contents of canceled claim 17 and is in allowable form. Claims 14 and 18 both depend upon claim 10. Thus, Applicant respectfully requests that the double patenting rejection of claims 10, 14 and 18 be withdrawn.

IV. Allowable Subject Matter

Claims 13 and 17 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As noted previously, claim 17 has been canceled and its contents incorporated into claim 10. Thus, Applicant submits that amended claim 10 is allowable.

Claim 13 depends upon amended claim 10 and thus should also be allowable.

New claim 30 represents the independent form of claim 13 in that it combines the contents of original claim 10 and claim 13.

Thus, Applicant submits that claims 10, 13 and 30, as well as the remaining claims, all of which depend on claim 10 or claim 30, are allowable.

V. Conclusion

In view of the amendments and remarks herein, Applicant respectfully requests that the rejections and objection set forth in the Office Action be withdrawn, and that claims 10-16, 18, 19 and 30-32 be allowed.

If any additional fees under 37 C. F. R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300, Order No. 033972.549252.

Respectfully submitted,
SMITH, GAMBRELL & RUSSELL, LLP

By: *Mary Montebello (Reg# 33,021)*
for Robert G. Weilacher, Reg. No. 20,531
1850 M Street, N.W., Suite 800
Washington, D.C. 20036
Telephone: (202) 263-4300
Facsimile: (202) 263-4329

Dated: June 19, 2006

RGW/MM/brs

Enclosures: (1) Petition for Extension of Time (Three Months)
(2) Check for the sum of \$1020